

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 19-CR-66

KYLE J. KAMINE,

Defendant.

ORDER GRANTING MOTION FOR SENTENCE CLARIFICATION

Kyle J. Kamine, then in state custody, was indicted on federal gun and drug charges on April 16, 2019 and appeared before a United States Magistrate Judge on April 25, 2019. At that time a federal detainer was issued and the defendant was returned to state custody. Kamine later entered pleas of guilty to the federal charges and on October 9, 2019, was sentenced to mandatory consecutive five-year terms for a total of ten years. He was then returned to state custody to complete the state sentences he was then serving. The court did not address whether the federal sentence was to run concurrent or consecutive to Kamine's state sentences, which he completed on April 28, 2020. Because the issue was not addressed by the court, the Bureau of Prisons has calculated Kamine's federal term to commence effective April 28, 2020, the day he finished serving his state sentence. Kamine has filed two motions seeking an amendment of the judgment of conviction to make his federal sentence concurrent to his state sentences.

Under Fed. R. Crim. P. 36, the court has the authority to correct an error in the judgment or record arising from oversight or omission. The court directed the Government and Probation to file a response to Kamine's motions. The Government supports issuance of an amended

Judgment that states that the federal sentence run concurrent with the state sentence effective October 9, 2019, the date his federal sentence was imposed, consistent with Mr. Kamine's co-defendant Joanna Baur. (Dkt. 54). Although Kamine presumably would want his federal sentence reduced even further so that he was given full credit for the time spent in state custody, that would require the court to reduce his federal sentence below the ten-year mandatory minimum sentence imposed. The court declines to take that action. Instead, the court directs that the Judgment of Conviction be amended to reflect that the sentence imposed by the court on October 9, 2019, commence on that date and run concurrent with the state sentences Kamine was then serving in Winnebago County Case Nos. 14CF529 and 17CF419.

SO ORDERED at Green Bay, Wisconsin this 17th day of June, 2020.

s/ William C. Griesbach
William C. Griesbach, District Judge
United States District Court